

105TH CONGRESS
1ST SESSION

S. 357

To authorize the Bureau of Land Management to manage the Grand Staircase-Escalante National Monument, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 25, 1997

Mr. BENNETT (for himself, Mr. HATCH, Mr. MURKOWSKI, Mr. CRAIG, Mr. BURNS, and Mr. THOMAS) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To authorize the Bureau of Land Management to manage the Grand Staircase-Escalante National Monument, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Grand Staircase-
5 Escalante Resource Protection Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) the designation of the Grand Staircase-
2 Escalante National Monument applies only to Fed-
3 eral land within the boundary of the Monument;

4 (2) multiple use has been and continues to be
5 the guiding principle in the management of public
6 land;

7 (3) in accordance with Proclamation 6920, is-
8 sued by the President on September 18, 1996 (61
9 Fed. Reg. 50223 (1996), Federal land within the
10 Monument should remain open for multiple uses;

11 (4) the United States should not lay claim to
12 Federal water rights in lands within the Monument
13 except in accordance with the substantive and proce-
14 dural requirements of the State of Utah, and des-
15 ignation of the Monument and enactment of this Act
16 should not impair exercise of water rights by the
17 State of Utah;

18 (5) mining revenues from Federal and State
19 School and Institutional Trust Lands have generated
20 considerable revenues for Utah schools;

21 (6) an estimated 176,000 acres of surface land
22 containing significant coal and other resources man-
23 aged by the School and Institutional Trust Lands

1 Administration for the benefit of Utah’s school chil-
 2 dren are located within the boundary of the Monu-
 3 ment;

4 (7) the creation of the Monument must not
 5 come at the expense of Utah’s school children;

6 (8) designation of the Monument will produce a
 7 considerable loss of future Federal royalties, State
 8 royalties, and school trust royalties resulting in sig-
 9 nificant revenue loss to Utah’s school children; and

10 (9) the lack of congressional, State, and local
 11 consultation prior to designation of the Monument
 12 and the failure of the Proclamation to establish a
 13 specific boundary for the Monument are certain to
 14 give rise to disputes that will require boundary ad-
 15 justments.

16 **SEC. 3. DEFINITIONS.**

17 In this Act:

18 (1) **ADVISORY COMMITTEE.**—The term “advi-
 19 sory committee” means the Grand Staircase-
 20 Escalante National Monument Advisory Committee
 21 established under section 12.

22 (2) **DIRECTOR.**—The term “Director” means
 23 the Director of the Bureau of Land Management.

24 (3) **EXISTING.**—The term “existing” means in
 25 existence as of September 18, 1996.

1 (4) MANAGEMENT PLAN.—The term “manage-
2 ment plan” means the management plan for the
3 Monument submitted to Congress under section 9.

4 (5) MONUMENT.—The term “Monument”
5 means the Grand Staircase-Escalante National
6 Monument established by Proclamation of the Presi-
7 dent on September 18, 1996.

8 (6) MULTIPLE USE.—The term “multiple use”
9 has the meaning given in section 103 of the Federal
10 Land Policy and Management Act of 1976 (43
11 U.S.C. 1702).

12 (7) SECRETARY.—The term “Secretary” means
13 the Secretary of the Interior.

14 (8) SPECIAL MANAGEMENT AREA.—The term
15 “special management area” means an area that is
16 managed by the Secretary in accordance with the
17 principles of multiple use and sustained yield in ac-
18 cordance with this Act.

19 (9) SUSTAINED YIELD.—The term “sustained
20 yield” has the meaning given in section 103 of the
21 Federal Land Policy and Management Act of 1976
22 (43 U.S.C. 1702).

23 **SEC. 4. MANAGEMENT OF THE MONUMENT.**

24 (a) SPECIAL MANAGEMENT AREA.—

1 (1) IN GENERAL.—The Monument shall be
2 managed by the Secretary as a special management
3 area in accordance with this Act.

4 (2) MULTIPLE USE AND SUSTAINED YIELD.—
5 The Secretary shall manage the resources within the
6 Monument in accordance with the principles of mul-
7 tiple use and sustained yield (including recreation,
8 range, timber, minerals, oil and gas, watershed,
9 wildlife, fish, and natural scenic, scientific, and his-
10 torical values), using principles of economic and
11 ecologic sustainability.

12 (3) PROTECTION OF RESOURCES.—The Sec-
13 retary shall provide for the protection, interpreta-
14 tion, and responsible use of Monument resources.

15 (4) ECONOMIC SUSTAINABILITY.—The Sec-
16 retary shall manage the Monument resources in a
17 way that provides for economic sustainability of local
18 communities.

19 (b) MANAGEMENT AUTHORITY.—

20 (1) DELEGATION TO THE DIRECTOR.—The Sec-
21 retary shall delegate authority to manage the Monu-
22 ment to the Director.

23 (2) LEAD AGENCY.—The Bureau of Land Man-
24 agement shall be the lead agency in all management
25 decisions concerning the Monument, pursuant to all

1 applicable legal authorities, and shall act in con-
 2 sultation with other Federal agencies, State and
 3 local government authorities, and the advisory com-
 4 mittee.

5 (c) FUTURE ACTION.—Nothing in this Act precludes
 6 the revocation of the Proclamation 6920 by Act of Con-
 7 gress or by Executive order, but, so long as land within
 8 the Monument remains subject to designation as a na-
 9 tional monument under Proclamation 6920, any successor
 10 proclamation, or an Act of Congress, the Monument shall
 11 be managed in accordance with this Act.

12 **SEC. 5. VALID EXISTING RIGHTS AND USES.**

13 (a) EXERCISE OF VALID EXISTING RIGHTS.—

14 (1) IN GENERAL.—The Secretary shall recog-
 15 nize and give due deference to the exercise of any
 16 valid existing right, lease, permit, or authorization
 17 under any law, including—

18 (A) the Federal Land Policy and Manage-
 19 ment Act of 1976 (43 U.S.C. 1701 et seq.);

20 (B)(i) sections 2319–28, 2331, 2333–
 21 2337, and 2344 of the Revised Statutes (com-
 22 monly known as the “General Mining Law of
 23 1872”) (30 U.S.C. 22–24, 26–28, 29–30, 33–
 24 35, 37, 39–42, 47); and

(ii) the Act entitled “An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain”, approved February 25, 1920 (commonly known as the “Mineral Lands Leasing Act of 1920”) (30 U.S.C. 181 et seq.);

(C) section 2477 of the Revised Statutes (43 U.S.C. 932) (to the extent of any rights-of-way existing on October 21, 1976);

(D) the Act of June 28, 1934 (48 Stat. 1269, chapter 865; 43 U.S.C. 315 et seq.) (commonly known as the “Taylor Grazing Act”);

(E) the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.); and

(F) any other applicable law.

(2) NO RESTRICTION.—Neither designation of the Monument nor adoption and implementation of the applicable management plan shall restrict or prevent the exercise of valid existing rights by persons that exercise those rights in compliance with all applicable laws.

(b) ROADS AND RIGHTS-OF-WAY.—The Secretary shall permit routine maintenance and improvement of

1 roads and rights-of-way within Monument boundaries to
2 ensure public safety and a high-quality visitor experience.

3 (c) TAKINGS.—Any valid existing right determined to
4 be taken as a result of designation of the Monument shall
5 be subject to compensation by the Secretary.

6 **SEC. 6. RANGE MANAGEMENT.**

7 (a) GRAZING OF LIVESTOCK.—Grazing of livestock
8 within the Monument shall continue and shall not be cur-
9 tailed by reason of designation of the Monument. Designa-
10 tion of the Monument shall not affect existing grazing
11 leases, grazing permits, and levels of livestock grazing
12 within the Monument.

13 (b) WATER RIGHTS.—The Secretary shall not require
14 a grazing permittee or grazing lessee to transfer or relin-
15 quish any part of the permittee's or lessee's water right
16 to another person (including the United States) as a con-
17 dition of granting, renewing, or transferring a grazing per-
18 mit or grazing lease.

19 **SEC. 7. WITHDRAWALS.**

20 No existing withdrawal, reservation, or appropriation
21 shall be revoked except in accordance with section 204 of
22 the Federal Land Policy and Management Act of 1976
23 (43 U.S.C. 1714).

1 **SEC. 8. NO FEDERAL RESERVATION OF WATER RIGHT.**

2 (a) NO FEDERAL RESERVATION.—Nothing in this
3 Act, any other Act, or any action taken under any Act
4 creates an expressed or implied reservation of water rights
5 in the United States for any purpose.

6 (b) ACQUISITION AND EXERCISE OF WATER RIGHTS
7 UNDER UTAH LAW.—

8 (1) ACQUISITION.—The United States may ac-
9 quire such water rights as the Secretary considers to
10 be necessary to carry out responsibilities of the Sec-
11 retary with respect to any land within the Monu-
12 ment only in accordance with the substantive and
13 procedural requirements of the law of the State of
14 Utah.

15 (2) EXERCISE.—Any rights to water granted
16 under the law of the State of Utah may be exercised
17 only in accordance with the substantive and proce-
18 dural requirements of the law of the State of Utah.

19 (3) EMINENT DOMAIN.—Nothing in this Act
20 authorizes the use of the power of eminent domain
21 by the United States to acquire water rights on land
22 within the Monument.

23 (c) FACILITIES NOT AFFECTED.—Nothing in this
24 Act or any other Act relating to management of land with-
25 in the Monument authorizes any action to be taken that
26 may affect the capacity, operation, repair, construction,

1 maintenance, modification, or repair of municipal, agricul-
2 tural, livestock, or wildlife water facilities within or outside
3 the Monument or water resources that flow through the
4 Monument.

5 (d) WATER RESOURCE PROJECTS.—Nothing in this
6 Act or any other Act relating to management of land with-
7 in the Monument limits, or establishes any matter to be
8 taken into consideration in connection with approval or de-
9 nial by any Federal official of access to, or use of, the
10 Federal land within or outside the Monument for develop-
11 ment and operation of water resource projects (including
12 reservoir projects).

13 **SEC. 9. MANAGEMENT PLAN.**

14 (a) MANAGEMENT IN ACCORDANCE WITH
15 FLPMA.—

16 (1) IN GENERAL.—Not later than September
17 18, 1999, the Secretary shall submit to Congress a
18 management plan for the Monument.

19 (2) MULTIPLE USE AND SUSTAINED YIELD.—In
20 the development and revision of the management
21 plan, the Secretary shall use and observe the prin-
22 ciples of multiple use and sustained yield and shall
23 use a systematic interdisciplinary approach to
24 achieve integrated consideration of physical, biologi-
25 cal, economic, and other sciences.

1 (b) REQUIREMENTS.—In the management plan, the
2 Secretary shall specifically address—

3 (1) the multiple uses of all of the resources of
4 the Monument (including recreation, range, timber,
5 mineral, oil and gas, watershed, wildlife, fish, and
6 natural scenic, scientific, and historical resources) in
7 a responsible manner, under all applicable laws and
8 authorities; and

9 (2) the economic impacts of the Monument on
10 the economies of local communities.

11 (c) NOTICE AND COMMENT.—The management plan
12 shall be made available for public review and comment as
13 required by law.

14 (d) UTILIZATION OF MONUMENT RESOURCES.—De-
15 velopment and utilization of resources within the Monu-
16 ment shall be authorized if—

17 (1) the President or Congress determines it to
18 be in the interests of the United States; or

19 (2) in case of a national emergency.

20 (e) INTERIM MANAGEMENT PLAN.—

21 (1) IN GENERAL.—Not later than 45 days after
22 the date of enactment of this Act, the Secretary
23 shall modify any guidelines in existence on the date
24 of enactment of this Act regarding management of

1 the Monument to conform to the requirements of
2 this Act.

3 (2) PENDING APPLICATIONS.—No lease on land
4 within the Monument with respect to which an appli-
5 cation of any kind was pending on September 18,
6 1996, or is pending on the date of enactment of this
7 Act shall expire if the Secretary has not acted on the
8 application.

9 **SEC. 10. STATE JURISDICTION WITH RESPECT TO FISH AND**
10 **WILDLIFE.**

11 Nothing in this Act—

12 (1) affects the jurisdiction or responsibilities of
13 the State of Utah with respect to fish and wildlife
14 management activities (including hunting, fishing,
15 trapping, predator control, and the stocking or
16 transplanting of fish and wildlife); or

17 (2) precludes the State of Utah from developing
18 water resources for fish and wildlife purposes under
19 State law.

20 **SEC. 11. SCHOOL TRUST LANDS EXCHANGE.**

21 (a) EXPEDITION OF EXCHANGES.—The Secretary
22 shall provide necessary resources to expedite all exchanges
23 of school trust lands within the Monument when sought
24 by the School and Institutional Trust Lands Administra-
25 tion of the State of Utah.

1 (b) VALUATION.—The Secretary shall value school
2 trust land sections as if surrounding unencumbered Fed-
3 eral lands were available for mineral development, and all
4 reasonable differences in valuation shall be resolved in
5 favor of the school trust.

6 (c) ANALYSIS OF LOST ROYALTIES.—Not later than
7 45 days after the date of enactment of this Act, the Sec-
8 retary shall submit to Congress an analysis of the loss of
9 Federal royalties that can be expected to result from des-
10 ignation of the Monument, based on research compiled by
11 the United States Geological Survey.

12 (d) ACCESS TO STATE SECTIONS.—The Secretary
13 shall not deny access to school trust lands within the
14 Monument by agencies of the State of Utah and des-
15 ignated permittees of those agencies.

16 **SEC. 12. ADVISORY COMMITTEE.**

17 (a) ESTABLISHMENT.—Not later than 90 days after
18 the date of enactment of this Act, the Secretary shall es-
19 tablish and convene a meeting of an advisory committee
20 to be known as the “Grand Staircase-Escalante National
21 Monument Advisory Committee”.

22 (b) DUTIES AND RESPONSIBILITIES.—The advisory
23 committee shall advise the Secretary, the Director, and the

1 Governor of the State of Utah concerning the develop-
2 ment, management, and interpretation of Monument re-
3 sources and the development, exchange, or disposal of
4 State school trust lands.

5 (c) MEMBERSHIP.—The advisory committee shall
6 consist of—

7 (1) the Secretary, the Governor of the State of
8 Utah, the member of the House of Representatives
9 from the third congressional district, and the 2
10 members of the Senate from the State of Utah; and

11 (2) 10 members appointed by the Secretary of
12 the Interior from among persons recommended by
13 the Governor of Utah, including—

14 (A) 1 representative of agricultural inter-
15 ests;

16 (B) 1 representative of mining and oil and
17 gas interests;

18 (C) 1 representative of recreational inter-
19 ests;

20 (D) 1 representative of environmental in-
21 terests;

22 (E) 1 representative of the School Institu-
23 tional Trust Lands Administration of the State
24 of Utah;

1 (F) 1 representative of the Department of
2 Natural Resources of the State of Utah;

3 (G) 1 representative of other agencies of
4 the State of Utah;

5 (H) 1 representative of local communities;

6 (I) 1 representative of Native Americans;

7 and

8 (J) 1 representative of the public at large.

9 (d) TERMS.—A member of the advisory committee
10 shall serve for a term not to exceed 5 years, determined
11 by the Secretary in consultation with the Governor of the
12 State of Utah, and may serve more than 1 term.

13 (e) VACANCIES.—A vacancy on the advisory commit-
14 tee shall be filled in the same manner as the original ap-
15 pointment is made. A member of the advisory committee
16 may serve until a successor is appointed.

17 (f) CHAIRPERSON.—The advisory committee shall se-
18 lect 1 member to serve as chairperson.

19 (g) MEETINGS.—The advisory committee shall meet
20 regularly.

21 (h) QUORUM.—A majority of members shall con-
22 stitute a quorum.

23 (i) COMPENSATION.—Members of the advisory com-
24 mittee shall serve without compensation, except that mem-
25 bers shall be entitled to reimbursement of travel expenses

1 including per diem while engaged in the business of the
2 advisory committee, in accordance with section 5703 of
3 title 5, United States Code.

4 **SEC. 13. MONUMENT PLANNING TEAM.**

5 The Secretary shall provide that the Monument plan-
6 ning team formed by the Secretary to prepare the manage-
7 ment plan for the Monument includes at least 5 persons
8 appointed by the Governor of the State of Utah to rep-
9 resent the State and local governments.

10 **SEC. 14. AUTHORIZATION OF APPROPRIATIONS.**

11 There are authorized to be appropriated such sums
12 as are necessary to—

13 (1) provide for development and implementation
14 of management plans, protection of Monument re-
15 sources, visitor services and facilities, law enforce-
16 ment, public safety, additional payments in lieu of
17 taxes to impacted counties, economic mitigation, and
18 the operation of the Monument advisory committee;
19 and

20 (2) facilitate the exchange of school trust lands.

○